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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	

To: The Commission

COMMENTS OF THE RURAL ALLIANCE

The Rural Alliance (the "Alliance"), by its attorneys and in response to the Common Carrier Bureau's Public Notice,[1] hereby submits its comments on the Federal-State Joint Board Recommended Decision (the "Recommended Decision") regarding new universal service mechanisms.[2] The Alliance submits that the Recommended Decision's blueprint for rural telephone companies' migration from the embedded cost methodology to a proxy model for determination of universal service cost recovery support is flawed and counterproductive. Specifically, the "freeze" of loop, switching and long term support cost recovery as outlined in the Recommended Decision will arbitrarily penalize those companies which currently

[1]/ Public Notice, "Common Carrier Bureau Seeks Comment on Universal Service Recommended Decision," CC Docket No. 96-45. DA 96 1891 (rel. Nov. 18, 1996). By Order released December 11, 1996, the Chief, Accounting and Audits Division, Common Carrier Bureau extended until December 19, 1996, the period for filing comments in this proceeding.

[2]/ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, FCC 96J-3 (rel. Nov. 8, 1996).

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are in the process of implementing modernization plans.[3] In addition, the freeze will discourage further deployment of rational and necessary technological improvements in rural areas. Because these results would stand in direct conflict with the basic principles and universal service policy goals of Congress and the Commission, the Alliance urges the Commission to eliminate the "freeze." This action is required to ensure the continued and enhanced provision of universal service in rural areas. In support of its position, the Alliance shows the following:

I. BACKGROUND

The Rural Alliance is comprised of independent telephone companies which meet the definition of "rural telephone company," as provided in the Telecommunications Act of 1996.[4] These companies historically have provided and are committed to the continued provision of reasonably-priced and high-quality telecommunications services to their subscribers. It is this historic commitment, and the execution of this commitment, that has resulted in the level of affordable universal service today enjoyed in this country. It is also a product of this commitment that

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3/ Recommended Decision at paras. 283-295. The Joint Board recommends that a frozen per loop amount be established based on 1995 embedded loop costs for rural telephone companies with high loop costs. Id. at para. 291. For the weighted Dial Equipment Minutes ("DEM") interstate allocation ("DEM weighting") applicable to switching equipment costs, the Joint Board recommends that a "per-line DEM weighting benefit" be calculated based on the calendar year 1996 to establish a frozen per-line support amount. Id. at para. 292. Finally, the Joint Board recommends establishment of a frozen Long Term Support per loop amount based on 1996 common line pooling results. Id. at para. 293.

4/ Pub.L.No. 104-104, 110 Stat. 56 (1996).

rural telecommunications subscribers are not "second-class" citizens in terms of their access to advanced telecommunications services -- the rural telephone industry has embraced technological progress and made the investment necessary to ensure that rural communities are not bypassed by the Information Superhighway.

Congress recently has mandated the "preservation and enhancement of universal service."[5] It has directed that the implementation of this policy goal shall be guided by the following principles, among others:

> 1. Quality services should be available at just, reasonable and affordable rates.
>
> 2. Access to advanced telecommunications and information services should be provided in all regions of the Nation.
>
> 3. Consumers in all regions of the Nation, including low-income consumers and those in rural, insular and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charges for similar services in urban areas.[6]

The history of rural telephony demonstrates that these principles are neither new, nor abstract. The Commission, state regulatory authorities and rural independent LECs historically have promoted, and the independent industry has successfully implemented, these concepts. It is also clear that Congress has expressly charged the Joint Board and the Commission with ensuring

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[5]/ 47 U.S.C. § 254(b).

[6]/ 47 U.S.C. § 254(b)(1)-(3).

that universal service is "preserved and enhanced" in a competitive marketplace. The Recommended Decision's proposed cost allocation and recovery "frozen per loop" approach, however, inexplicably departs from Congressional directives and Commission precedent, and, as a result, would jeopardize the continued ability of rural telephone companies to implement their commitment to these universal service principles. Moreover, the freeze arbitrarily penalizes those companies which are in the process of executing their commitment. The Commission should, therefore, eliminate the proposed "freeze."

II. THE "FREEZE" MECHANISM IS ARBITRARY.

The Commission historically has taken official notice of the characteristic geographic and demographic features of the areas served by rural independents and the economic aspects of the companies themselves. In fact, these characteristics are noted by the Joint Board in this very proceeding, and have correctly led the Joint Board to recognize that immediate imposition of a proxy methodology for calculation of USF benefits is inappropriate. The Joint Board notes that since rural telephone companies

> generally serve fewer subscribers, relative to the large incumbent LECs, serve more sparsely populated areas, and do not generally benefit from the economies of scale and scope as much as non-rural carriers, they often cannot respond to changing operating circumstances as quickly as large carriers.[7]

Despite the Joint Board's recognition that rural carriers should not immediately be subjected to the proposed proxy

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[7]/ Recommended Decision at para. 283 (citation omitted).

methodology,[8] it inexplicably and arbitrarily decreed that, during the transition period, high cost assistance be based upon frozen per-line or per-loop assistance determined with reference to carriers' embedded costs as of distinct dates.[9] Under the Joint Board's recommendation, universal service loop investment deployed in 1996 and beyond and switching investment deployed in 1997 and beyond will not be eligible for USF cost allocation and recovery.

This recommendation ignores the existing commitments of rural telephone companies to purchase and deploy network upgrades. Similarly, this recommendation, if implemented, will discourage any future commitment of rural telephone companies to execute the principles of universal service. If post-1995 loop or post-1996 switching and deployment costs are ineligible for universal service treatment, the result will be either that rural consumers will be burdened with higher prices for comparable services, or that rural consumers will not have access to comparable services because the technology necessary to provide such services will not be deployed. Accordingly, the investment and cost "freeze" provisions are directly contrary to Congressional directives and historic

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8/ The Joint Board recommended that rural carriers move to the proxy model only after a transition of three years. The Joint Board also recommends that the three-year period be followed by a gradual migration to the proxy methodology, with USF funding being based in the year 2001 on a 75/25 percent split between traditional and proxy methodology, respectively. In the year 2002, funding would be based upon a 50/50 split between the two methodologies, and in the year 2003, the funding percentages would be 25/75. Beginning in 2004, funding would be based 100% on the proxy methodology. Id. at para. 289.

9/ Id. at paras. 291-293.

Commission policy and should not be implemented.

The Joint Board recognized that its "primary responsibility [regarding universal service] is to ensure that consumers throughout the Nation are not harmed and are benefited under our recommendations."[10] Despite this acknowledgement of responsibility, it nonetheless proposed a transition requirement which jeopardizes the continued and enhanced provision of universal service. In an unfortunately misguided attempt to encourage rural carriers to operate "efficiently," and to prepare these LECs "for both their move to a proxy model and the advent of a more competitive marketplace,"[11] the Joint Board arbitrarily precluded recovery of prudent investment solely on the basis of the coincidental timing of that investment.[12]

The Recommended Decision presumes that the December 31, 1995 "snapshot" of loop investment and expense and the calendar year 1996 "snapshot" for switching costs are accurate not only for the purposes of universal service support calculations during a transition period, but also that this picture is meaningful in the context of the rural telephone companies' existing and continuing

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10/ Id. at para. 22.

11/ Id. at para. 290.

12/ The Alliance does not advocate immediate imposition of the proxy models to rural telephone companies. However, a freeze at a specific point in time would be inconsistent with the conceptual approach for the proxy models. The models apparently are to be designed to model per-unit costs over the long term to moderate the "peaks and valleys" of annual revenue requirement-type cost calculations. The freeze will not capture an appropriate "going-level" of long term per-unit cost.

obligations. This presumption is simply incorrect because it ignores the historic industry pattern of planning and deployment of significant capital investments.

Investment plans within the telephone industry typically are both long-term and incremental. Rural telephone companies typically operate under multi-year capital improvement plans, often with the advice and approval of state commissions. Furthermore, even where technological advancements and regulatory requirements may have resulted in shifts or acceleration of deployment schedules, major investment within this industry is the result of a long-term planning process, rather than spontaneous decision-making. Consequently, any "freeze" will result in an arbitrary and detrimental impact on rational investment planning to the detriment of rural users.[13]

The "freeze" is, therefore, ill-conceived and ill-suited to

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[13]/ Moreover, the small size of most rural telephone companies results in "lumpy" plant investments as recorded under embedded cost accounting methods. Small rural telephone companies do not have multiple plant upgrade projects ongoing constantly that would make year-by-year additional investments relatively constant and gradual. Instead, plant upgrade projects for smaller LECs are often conducted in mass projects that result in fluctuations in investment levels. Many times, for example, extensive outside plant upgrades are conducted for major parts of a small LEC's network in a single project followed by several years of relative inactivity in outside plant upgrades. Similarly, with typically only a few central offices, a "change-out" of a single office or a group of offices in a single year can lead to a large increase in investment in central office equipment followed by a few years of relatively less central office equipment investment activity. As the term implies, small companies tend to "lump" their plant upgrades into major projects while larger LECs can and do spread their investment activity evenly and gradually both over time and across their networks.

the very purpose of universal service. Implementation of this proposal to "prepare" rural telephone companies to participate in a competitive marketplace will, in fact, result in their significant disadvantage by interrupting capital improvement plans. Rural telephone companies, having made commitments to improve infrastructure and service, will be forced to reexamine those commitments if the proposed "freeze" is adopted. In light of the overriding purpose to maintain reasonable local rates, the "freeze" will have the ironic effect of undermining the very purpose of universal service.

III. THE FREEZE MECHANISM WILL HARM RURAL TELECOMMUNICATIONS INFRASTRUCTURE DEVELOPMENT.

The harmful impact of implementation of the proposed "freeze" is graphically represented by its impact on Mid-Missouri Telephone Company ("Mid-Missouri"), a rural independent telephone company serving approximately 3500 access lines in central Missouri. Currently, Mid-Missouri operates 12 exchanges through 12 separate switches. This arrangement constitutes a typical rural configuration where exchanges are small and geographically separated.

Mid-Missouri provides service to an average of 2.68 customers per route mile. The service area is rural, and its economy is based upon farming. Like many farming communities, this area has been suffering from the agricultural downturn and is only recently beginning to recover.

Mid-Missouri started planning significant plant upgrades in 1993. In informal consultation with the staff of the Missouri

Public Service Commission, Mid-Missouri discussed the requirements of network design and deployment plans. These consultations were voluntary and cooperative, and conducted with the recognition of two factors: first, upgrade plans could affect local rates, and second, that the State of Missouri is a signatory to a Rural Utilities Service State Telecommunications Modernization Plan. The ultimate plan thus balanced cost recovery and rate impacts with the objective of bringing advanced up-to-date technology and service to rural Missouri users.

These consultations resulted in a five-year investment plan to accomplish prudent re-engineering to meet the requirements for network upgrades and to utilize the most efficient technologies available. Mid-Missouri implemented the unanimous recommendation of its engineering experts to convert its eleven (11) Class 5 offices to remote concentrators, connecting to a single host central office. This conversion to the "best available" technological solution for its local network will result in vastly greater loop investment compared to its previous design, according to rigidly applied accounting and separations rules. Because a significant portion of this five-year plan was implemented in 1996, the loop investment related to these loop costs will not, under the proposed 1995 freeze for loop costs, be eligible for universal service cost allocation and recovery. Furthermore, the new switching equipment is scheduled to be in service by the end of 1996 which results in a net reduction of traffic-sensitive transport revenues. Accordingly, Mid-Missouri would, under the

Recommended Decision, be arbitrarily denied access to a reasonable recovery mechanism on the basis of the timing of its investment.

IV. CONCLUSION

The Alliance urges the Commission to adhere to Congressional directives and its own precedent in ensuring that rural telephone companies are not arbitrarily penalized for continuing their historic commitment to provide reasonably-priced and high-quality telecommunications services to rural subscribers. Accordingly, the Commission should reject the Joint Board's recommended "freeze."

Respectfully submitted,

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December 19, 1996

CERTIFICATE OF SERVICE

I, Shelley M. Bryce, of Kraskin & Lesse, hereby certify that a copy of the foregoing Comments of The Independent Alliance in CC Docket 96-45 was served on this 19th day of December, 1996, by first class, U.S. mail, postage prepaid, to the following parties:

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